

Zoning Commission Minutes

August 29, 2013
3:00 pm

Chairman Russ Hoff called the meeting of the Stark County Zoning Commission to order. Chairman Hoff, Larry Messer, Klayton Oltmanns, Sue Larsen, Kurt Froelich, and Jay Elkin present and absent were Duane Grundhauser and Gene Jackson. Also present were Planner Steve Josephson, States Attorney Tom Henning, Auditor Kay Haag, and Nicole Roberts.

Jay Elkin moved to approve the minutes with a correction from the August 1, 2013 meeting regarding Chairman Hoff voting Naye on the request of Carlton LeBuff. Klayton Oltmanns seconded. All voted Aye and motion carried.

Gaylon Baker requested a review of a sketch plan for a proposed subdivision plat located in the NE4 of Section 33, Township 138, Range 96. Cody Sebastian voiced her concern regarding her private driveway and will not give an easement to it. An approach would need to be built to access the property.

STAFF COMMENTS: The property is 29.58 acres in an area and is currently zoned Residential, Agricultural (R, A). Development standards for a residential lot in R, A are as follows:

- Minimum lot size-40,000 square feet if served by a septic system; 20,000 square feet if served by water and sewer delivery systems;
- Minimum lot width-100 feet; and
- Minimum lot depth-200 feet.

The proposed lots exceed the minimum development standards of the R,A zoning district.

Access shall be determined by the County Road Superintendent. The applicant should consider shared access for proposed Lots 1 and 2.

Chairman Hoff opened the public hearing on a request from Stu Stiles and Jim Hereford. The request was for a zoning change from Agriculture to Industrial on a parcel located north of the railroad in Section 1, Township 139, Range 99 and in the E2E2 of Section 2, Township 139, Range 99 containing approximately 438.8 acres. Chairman Hoff asked for anyone to speak for or against the zoning change from Agriculture to Industrial. Gaylon Baker voiced his opinion on the need for the Rail Service. Lori Solberg presented a petition signed by residents opposed to the rail terminal facility. Ed Buckman voiced concerns in regards to the oil industry slowing down and will the rail terminal facility be needed. Stacy Buckman voiced concerns in regards to other industries moving in, flyash causes respiratory problems and the impact on property values. Kurt and Cindy Buckman, Linda Weiss, and Ruth Mull voiced concerns on traffic and location. Chairman Hoff closed the public hearing.

Kurt Froelich moved to deny the zoning change from Agriculture to Industrial following staff recommendations for Stu Stiles and Jim Hereford. Lack of a second, motion failed. Jay Elkin moved to table the request for a zoning change from Agriculture to Industrial requesting more information and listening to the concerns of the citizens for Stu Stiles and Jim Hereford.

STAFF RECOMMENDATION: Denial based upon the following reasons:

The request is not consistent with the following objectives of the Stark County Comprehensive Plan:

1. LAND USE-Strive to protect the agricultural integrity of rural areas; and
2. LAND USE-Avoid conflicts between land uses.

The request is not consistent with the following policies of the Stark County Comprehensive plan:

1. LAND USE-Stark County supports protecting farming practices from contrasting interests of non-farm residents and businesses.
2. LAND USE-Stark County supports the prohibition of the approval of spot zoning except at established farmsteads or other sites which meet the county's requirements.
3. ECONOMIC DEVELOPMENT-Stark County supports the land use and zoning designation of an adequate supply of commercial and industrial land as needed to attract quality business and industrial development within the County. In particular this type of growth should be directed not only to areas adjacent to Dickinson but also to the rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield and the Highway 10 corridor between Dickinson and South Heart. **OMIT**

Larry Messer seconded. Roll call vote. All voted Aye except Kurt Froelich voted Naye. Motion carried.

Chairman Hoff opened the public hearing on the proposed amendment to Section 16.6 of the Stark County Zoning Ordinance. Chairman Hoff asked anyone to speak for or against the proposed amendment. Chairman Hoff closed the public hearing.

Klayton Oltmanns moved to approve the proposed amendments to Section 16.6 of the Stark County Zoning Ordinance to include the staff recommendations and the following language:

6.16 Excavation and Mining of Sand, Gravel, Rock, Stone, Scoria and Clay

All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources. The provisions of this section shall not apply to any excavations for agricultural purposes or for uses requiring less than five thousand (5,000) cubic yards of aggregate.

An applicant for a conditional use permit to excavate or mine sand, gravel, rock, stone, scoria, or clay shall meet the following requirements:

- 1) Provide the County Zoning Administrator with a site plan for operation and reclamation of the mined land, including maps showing the location of the land to be mined; the location of roads and points of access to the site; adjacent residences within one mile of the site, maps showing the existing and proposed contours after the land is mined; and a timetable for operation of the site.**
- 2) Provide the County Zoning Administrator with evidence of written agreement between the applicant and property owner that excavation or processing shall not take place within three hundred (300) feet of an adjacent property line or within five hundred (500) feet of an existing residence.**

3) Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer or a North Dakota Certified Weed Seed Free Forage (WSFF) Inspector before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the Applicant shall submit such documentation with the Conditional Use Permit Application. If during the inspection it is determined that site is infested with invasive and/or noxious weeds, the Applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall, at a minimum, include the following components:

- a. Pit Opening Plan, which would include an inspection prior to opening of the pit;
- b. Overburden Material Stockpile Plan;
- c. Active Pit Mining Plan;
- d. Buffer Zone Area Plan;
- e. Mine Area Reclamation Plan; and
- f. Yearly Inspection Proposal Plan which would include annual inspections by the County Weed Officer.

The plan shall be submitted as part of the conditional use application.

Weed control treatments shall be completed and a re-inspection by the Weed Officer or a WSFF certified inspector shall be completed prior to the commencement of mining operations. A written re-inspection report shall be filed with the Stark County Zoning Administrator prior to the commencement of mining operations.

- 4) Demonstrate compatibility with the existing landform including the vegetation, surface, and ground water resources.
- 5) All mining and excavation sites must have at least a 3-to-1 slope.
- 6) Provide the County Zoning Administrator with written evidence of a reclamation agreement between the applicant and the surface owner.
- 7) Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned, or closure of the operation of the site. All top soil shall be replaced and planted to natural protected vegetation.
- 8) Post bond as followed in an amount to be determined by the County Commission.

Mining activities within a within a two-mile radius of a jurisdictional limits of any incorporated city within the County shall be prohibited.

STAFF RECOMMENDATION: Approval of the proposed amendment to Article VI of the Stark County Zoning Ordinance is based upon the following findings:

The proposed text amendments support the following portions of the Stark County Zoning Ordinance:

Section 8.3.1)-In order to promote and protect public health, safety and the general welfare, the Planning and Zoning Commission may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use. In all cases in which

conditional uses are granted, the Planning and Zoning Commission shall prior to issuance of a certificate of compliance, require evidence of compliance with these provisions and with the conditions set forth.

Section 8.3.2)-No conditional use permit shall be recommended by the Planning and Zoning Commission or approved by the Commission unless the applicant shall have met all the following criteria:

- a) The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.
- b) The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
- c) The proposed conditional use shall not impede the normal orderly development of the surrounding property.

The proposed Stark County Zoning Ordinance amendment is consistent with the following objectives of the Stark County Comprehensive Plan:

- NATURAL RESOURCES-Maintain Stark County's clean and favorable environment.
- NATURAL RESOURCES-Preserve adequate quantities and quality of ground and surface water supplies.
- LAND USE-Strive to protect the agricultural integrity of rural areas.

The proposed amendment is consistent with the following implementation strategies of the Stark County Comprehensive Plan:

- NATURAL RESOURCES- Stark County supports proper planning for impacts resulting from coal, oil, natural gas, wind, uranium, or other natural resource development.
- GOVERNMENTAL- Stark County supports the periodic review of county codes and ordinances to ensure their current relevancy.

Sue Larsen seconded. Roll call vote. All voted Aye and the motion carried.

Planner Steve Josephson reported that on August 1st the Zoning Board recommended to the Board of Commissioners the zoning change from Agricultural to Commercial and Industrial and tabling the Conditional Use Permit for Carlton Lebuff (C.L. Thomas). On August 6th the Board of Commissioners tabled the zoning change from Agricultural to Commercial and Industrial and the Conditional Use Permit for more information regarding layout, approaches and access for emergency services to continue with the Conditional Use Permit for Carlton Labeff (C.L. Thomas).

Jay Elkin moved to adjourn. Klayton Oltmanns seconded.